REMARKS

Applicants have carefully studied the outstanding Official Action. The present amendment is intended to be fully responsive to all points of rejection and is believed to place the application in condition for allowance. Favorable reconsideration and allowance of the present application are hereby respectfully requested.

Claims 70 - 73, 75, 76, 107, 109, 111 - 117, 119, 121 - 127, 129, 131, and 132 are pending in the present application before the present amendment.

Claim 70 stands rejected under 35 USC 102(b) as being unpatentable over US Patent 5,446,919 to Wilkins.

Wilkins describes a communication system capable of targeting a demographically or psychographically defined audience. Demographic and psychographic information about each audience member is kept in a database and also transmitted to a decoder associated with each audience member. The decoder associated with each audience member compares a selection profile accompanying media messages to the information about each audience member, and selects media messages appropriate to the audience member.

Wilkins describes, for example at col. 11, lines 25 - 50, as cited in the Office Action, targeting advertisements according to demographic or psychographic data such as, for example, household income.

Applicants have carefully studied Wilkins and find that Wilkins neither describes nor suggests providing, targeting, or otherwise dealing with commercials "based ... on past viewing thereof", as recited in claim 70.

Claim 70 is therefore deemed allowable over Wilkins.

Nevertheless, Applicants have also considered the patentability of claim 70 over US Patent 6,177,931 to Alexander et al (as discussed below with reference to the rejection of claims 71 - 73, 111, 112 - 114, and 121 - 124). While Applicants do not necessarily believe that claim 70 is unpatentable in light of Alexander et al, or in light of Alexander at al combined with Wilkins, Applicants have nevertheless amended claim 70 to include the recitations of claims 75 and 76 in order to facilitate allowance of the present application. Applicants reserve the

right to pursue claim 70 in unamended form in the context of a continuing application.

Amended claim 70 now includes the following recitation: "wherein ... said receiver decoder deals with said commercials by one of the following: determining conditions pursuant to which viewing of said commercials may be obviated independently of user action; and determining conditions pursuant to which viewing of said commercials is obviated by user action".

Applicants have carefully studied Alexander et al and US Patent 6,490,000 to Schaefer et al (discussed below with reference to the rejection of claims 75 - 76, 109, 115 - 117, 119, 125 - 126, 127, 129 and 131) and find that neither Alexander et al nor Schaefer et al describes or suggests either "determining conditions pursuant to which viewing of said commercials may be obviated independently of user action", or "determining conditions pursuant to which viewing of said commercials is obviated by user action", as recited in amended claim 70. Should the Examiner disagree, the Examiner is respectfully requested to indicate exactly which passage or passages in the art of record are alleged to describe or suggest the indicated limitations of amended claim 70.

Amended claim 70 is therefore deemed allowable.

Claims 71 - 73, 111 - 114, and 121 - 124 stand rejected under 35 USC 102(e) as being unpatentable over Alexander et al.

Alexander et al describes an Electronic Programming Guide ("EPG") providing, among other things: "Improved viewer interaction capabilities with the EPG; improved viewer control of video recording of future-scheduled programming; improved features to the EPG display and navigation; parental control of the EPG display; improved television program information access by the viewer; improved opportunities for the commercial advertiser to reach the viewer; improved product information access by the viewer; creation of a viewer's profile; utilization of viewer profile information to customize various aspects of the EPG; and utilization of viewer profile information to provide customized presentation of advertising to the viewer".

Claim 71 has been amended similarly to claim 70. Claim 71 is therefore deemed allowable with reference to the above discussion of the allowability of amended claim 70.

Claims 72 and 73 depend from amended claim 71 and recite additional patentable subject matter. Claims 72 and 73 are therefore deemed allowable.

Claims 111 and 112 have been amended similarly to claim 71. Claims 111 and 112 are therefore deemed allowable with reference to the above discussion of the allowability of amended claim 71.

Claims 113 and 114 depend from amended claim 112 and recite additional patentable subject matter. Claims 113 and 114 are therefore deemed allowable.

Claims 121 and 122 have been amended similarly to claim 71. Claims 121 and 122 are therefore deemed allowable with reference to the above discussion of the allowability of amended claim 71.

Claims 123 and 124 depend from amended claim 122 and recite additional patentable subject matter. Claims 123 and 124 are therefore deemed allowable.

Claims 75, 76, 109, 115 - 117, 119, 125 - 127, 129 and 131 stand rejected under 35 USC 103(a) as being unpatentable over Alexander et al in view of US Patent 6,490,000 to Schaefer et al.

Schaefer et al describes a system for delaying the display of a portion of audio and video broadcast signals received from a remote location, including use of a first-in / first-out storage queue. The system can be controlled by allowing a broadcast facility to "mark" segments of video and audio to be immune from fast-forward.

Regarding claims 75 and 76, applicants respectfully refer to the above discussion of the patentability of amended claim 70.

Claims 75 and 76 are therefore deemed allowable.

Claim 109 depends from amended claim 71 and recites additional patentable subject matter. Claim 109 is therefore deemed allowable.

Claims 115, 116, and 119 depend from amended claim 112 and recite additional patentable subject matter. Claims 115, 116, and 119 are therefore deemed allowable.

Claim 117 depends from amended claim 111 and recites additional patentable subject matter. Claim 117 is therefore deemed allowable.

Claims 125, 126 and 129 depend from amended claim 122 and recite additional patentable subject matter. Claims 125, 126, and 129 are therefore deemed allowable.

Claim 127 depends from amended claim 121 and recites additional patentable subject matter. Claim 127 is therefore deemed allowable.

Claim 131 has been cancelled without prejudice. Applicants reserve the right to pursue claim 131 in the context of a continuing application.

Claim 107 stands rejected under 35 USC 103(a) as being unpatentable over Wilkins in view of Schaefer et al.

Claim 107 depends from amended claim 70 and recites additional patentable subject matter. Claim 107 is therefore deemed allowable.

Claim 132 stands rejected under 35 USC 103(a) over Alexander et al in view of US Patent 6,377,745 to Akiba et al.

Akiba et al describes an apparatus and method for recording and reproducing video data. Specifically, Akiba et al describes (in the passage pointed out in the Office Action, at col. 12 line 53 - col. 13 line 20) the possibility of manipulating the manner of reproduction of frames of a commercial being played in a fast forward mode in order to suppress the viewer's eye strain; the result is, presumably, to make the commercial more intelligible despite the fast forward mode of play.

Applicants have considered the allowability of claim 132 over Alexander et al in view of Akiba et al as well as considering the allowability of claim 132 over US Patent 6,698,020 to Zigmond et al in view of Akiba at al, in accordance with the rejection in the previous Office Action.

It is respectfully pointed out that Akiba et al describes a low-level "technical" manipulation of the frames being played. Applicants have carefully studied Akiba et al, including the portion mentioned in the Office Action (col. 12,

line 53 - col. 13, line 20) and find that, contrary to the position now taken in the Office Action, Akiba et al neither describes nor suggests "presenting alternative shortened versions of other commercials in response to a user request to view said one commercial in a fast-forward or fast-backward mode". Again, as stated above, Akiba simply manipulates the manner of reproduction of frames in order to suppress the viewer's eye strain.

Furthermore, not only is there no recitation in Akiba et al which describes or suggests the indicated recitation of claim 132; Akiba et al deals with a completely different and unrelated problem and presents a different solution than that of claim 132, so that it is not clear why a reasonably skilled person of the art would even consider combining Akiba et al with Alexander et al or with Zigmond et al. The Office Action has not pointed out a motivation for combining the disparate references. Applicants therefore respectfully suggest that the Office Action has not identified a proper motivation for combining the references used to reject claim 132, and has therefore failed to make a *prima facie* case for the unpatentability of claim 132.

Consequently, applicants respectfully request that the rejection of claim 132 be withdrawn.

New claims 134 - 136 have been added. New claims 134 - 136 are supported, inter alia, by the fourth full paragraph on page 32 of the specification. New claims 134 - 136, which depend directly or indirectly from claim 132, recite additional features which further distinguish over the recitation of Akiba et al, even if, contrary to Applicants' position, a combination of Akiba et al with Alexander et al or with Zigmond et al would be possible.

Generally, in the above remarks, Applicants have responded to the rejection of certain dependent claims by asserting the allowability of those dependent claims based on their being dependent from other claims which are deemed allowable. In order to facilitate allowance of the present application, Applicants have not directly addressed the rejection of those dependent claims even when Applicants believe that such rejection is improper; Applicants' silence concerning those rejections should not be construed as agreement with those rejections.

In view of the foregoing remarks, it is respectfully submitted that the present application is now in condition for allowance.

Favorable reconsideration and allowance of the present application are respectfully requested.

Respectfully submitted,

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25 May 2006

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